

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

HARRIS METHODIST, FT. WORTH,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Cause Number
	§	4:01-CV-0567-Y
SALES SUPPORT SERVICES, INC.	§	
EMPLOYEE HEALTH CARE PLAN and	§	
SALES SUPPORT SERVICES, INC.,	§	
	§	
Defendants and Third-	§	
Party Plaintiffs,	§	
	§	
v.	§	
	§	
TRANSAMERICA LIFE INSURANCE AND	§	
ANNUITY COMPANY, STANDARD SECURITY	§	
LIFE INSURANCE COMPANY OF NEW YORK	§	
AND BERKLEY RISK MANAGERS,	§	
	§	
Third-Party Defendants.	§	

ORDER PARTIALLY GRANTING JOINT MOTION TO SET ASIDE

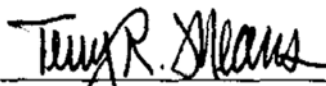
On this day the Court considered the Parties' Joint Motion to Set Aside [document number 237]. Having considered the Motion and its joint nature, the Court is of the opinion that it should be and hereby is PARTIALLY GRANTED. The Court's October 3, 2006, Order for Trial-Setting Conference [document number 232] is hereby VACATED. The trial-setting conference will be postponed indefinitely pending further order of the Court.

It is further ORDERED that Plaintiff and Defendants shall, within thirty (30) days of the entry of this order, submit a stipulated

amount of medical charges and accrual date for prejudgment interest. If a stipulation cannot be reached, a trial-setting conference will be ordered after the Court rules on Plaintiff's pending Motion for Reconsideration [document number 227].<sup>1</sup>

Additionally, the issue of attorneys' fees will be taken up in accordance with Rule 54(d)(2). Thus, it may be addressed by motion filed "within fourteen days *after* entry of judgment," FED. R. CIV. P. 54(d)(2)(B) (emphasis added), "*unless* the substantive law governing the action provides for the recovery of such fees as an element of damages to be proved at trial," FED. R. CIV. P. 54(d)(2)(A) (emphasis added). Assuming that the substantive law requires proof of such fees at trial, but no other issues remain for trial, the Court has no objection to hearing the issue on motion made in accordance with Rule 54(d)(2), assuming that the parties agree to that procedure and the law allows for such an arrangement.

SIGNED November 9, 2006.

  
\_\_\_\_\_  
TERRY R. MEANS  
UNITED STATES DISTRICT JUDGE

---

<sup>1</sup>The parties' joint motion requests that the Court give Plaintiff and Defendants thirty days to "either submit a stipulated amount of medical charges and accrual date for prejudgment interest or file a motion for determination of same." (Joint Mot. at 2-3.) The Court is not inclined to entertain any further summary-judgment motions in this cause, inasmuch as the deadline for such motions passed long ago. See also N.D. TEX. L. R. 56.2(b) ("a party may file no more than one motion for summary judgment").